

United States District Court
for the
Eastern District of New York

DPP
CLW

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Paul Rivera

Case Number 02-CR-250

Name of Sentencing Judicial Officer: The Honorable Frederic Block, Senior U.S. District Court Judge

Date of Original Sentence: December 22, 2003

Original Offense: Conspiracy to Commit Extortion, 18 U.S.C. § 1951, A Class C felony

Original Sentence: Twelve months custody to run concurrently to the undischarged term of twenty-four months in CR-96-423(JG) and CR-96-1008(JG) imposed by the Honorable J. Gleeson on November 18, 2002, to violating the conditions of supervised release; three years supervised release with the following special conditions: the defendant shall not possess any kind of firearm, and the defendant shall participate in a drug treatment program as directed by the probation department, whether it is residential or outpatient. The defendant shall contribute to the cost of services rendered or medications prescribed via co-payments or full payment based upon the defendant's ability to pay and or third party payments. The defendant was also ordered to pay a special assessment fee of \$100.

Type of Supervision: Supervised Release

Date Supervision Commenced: November 26, 2004

PETITIONING THE COURT

- To extend the term of supervision for years, for a total term of years.
- To modify the conditions of supervision as follows:

For a period of **90** days, the defendant shall reside in a community confinement center (CCC) approved by the Probation Department. While in the CCC, the defendant shall adhere to all rules and conditions established by the CCC, including the payment of sustenance costs.

CAUSE

The purpose of this correspondence is to address the offender's illicit drug use and failure to report his change in residence.

At the commencement of the offender's supervision term, he was placed in outpatient substance abuse treatment, first at Daytop and then at the Counseling Service Eastern District of New York. The offender submitted the following urine specimens to the substance abuse treatment programs and the probation department which tested and confirmed positive for illicit controlled substances: December 21, 2004, - opiates; April 20, 2005, - cocaine; May 11, 2005, and January 4, 2006, - cocaine. We have since increased the offender's treatment.

Upon a finding the offender illegally used a controlled substance during supervision, the Court must revoke the term of supervised release and impose a term of incarceration not exceeding that noted in 3583(e)(3); U.S. v Wirth, 250 F.3d 165 (2d Cir. 2001). However, the court may grant an exception to mandatory revocation based on the offender's past or current participation in an appropriate treatment program. 18 U.S.C. § 3583(d).

As to his residence, since the commencement of his supervision, the offender has failed to stabilize his residence. Initially, the offender reported that he resided at 1460 85th Street, Brooklyn, New York. However, shortly thereafter, he reported that he was temporarily staying in Manhattan with a friend. Subsequently, the offender returned to the Brooklyn address. Most recently, the offender left his residence located at 1460 85th Street, Brooklyn, New York, and failed to notify the probation department of this change. On January 19, 2006, the offender's girlfriend contacted the undersigned probation officer to state that he was no longer living at the residence, and that he had left approximately one month prior. During an office contact on January 20, 2006, the offender reported that he had a disagreement with his girlfriend, and left the residence. He explained that he did not officially move out of the residence, but was only staying at another residence temporarily.

We respectfully recommend that the offender be placed in a community confinement center for 90 days. We believe this will serve several purposes; as an intermediate sanction for violating the conditions of his release, and increased monitoring of the offender's whereabouts. Also, the community confinement center has zero tolerance policy regarding drug and alcohol use which will in effect provide ongoing monitoring of the offender's abstinence from all mood altering substances. In addition, the offender will continue to attend the Counseling Service Eastern District of New York for substance abuse counseling.

The offender voluntarily signed the attached Probation Form 49, Waiver of Hearing to Modify the Conditions.

Request for Modifying the
Conditions or Terms of Supervision
with Consent of the Offender

Prob 12B / Page 3

Respectfully submitted by,

Tanya M. Parris
Tanya M. Parris
Senior U.S. Probation Officer

Approved by,

Att/Sworn for
Eileen Kelly
Senior Deputy Chief U.S. Probation Officer
Date: 2/9/06

THE COURT ORDERS:

- No Action
- The Extension of Supervision as Noted Above
- The Modification of Conditions as Noted Above
- Other

Signature of Judicial Officer

2/14/05.

Date

United States District Court
EASTERN DISTRICT OF NEW YORK

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and the assistance of counsel before any unfavorable change(s) may be made in my conditions of Probation and/or Supervised Release or before my period of supervision can be extended. By assistance of counsel, " I understand that I have the right to be represented at a hearing by counsel of my choosing if I am able to retain counsel. I also understand that I have the right to request that the Court appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel. "

I hereby voluntarily waive my statutory right to a hearing and to the assistance of counsel. I also hereby agree to the following modification (s) of my conditions of Probation and/or Supervised Release or to the proposed extension of my term of supervision:

For a period of 90 days, the defendant shall reside in a Community Confinement Center (CCC) approved by the Probation Department. While in the CCC, the defendant shall adhere to all rules and conditions established by the CCC, including the payment of subsistence costs.

Witness:

Janya M. Harris
U.S. Probation Officer

Signed:

Tammy L. Lewis
Probationer or Supervised Releasee

1/20/06
Date